IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO.14/2003

1. Lucia Cezaria Pereira de Costa

2. Pedro Joao Braganza,

3. Maria Michell Mesquita,

All residing at St. Cruz,
Ilhas, Goa. ..... Appellants.

V/s.

1. Paulo Domingos Mesquita,

2. Carlos Mesquita,

Both r/o. Opp. Health Department
Campala, Panaji, Goa.

3. Alberto Mesquita,
H.No. 194, Terceiro,
Bairo Covla, Salcete, Goa. ..... Respondents.

Mr. E.P. Lobo, Advocate for the appellants.

Ms. Shubhalaxmi S. Naik, Advocate for respondent No.1.

Mr. J. Godinho, Advocate for respondent No.2.

CORAM : P.V. KAKADE, J.

DATE : 8TH NOVEMBER, 2006.

ORAL JUDGMENT :

Heard learned Counsel for both the parties. The appellants

have preferred this appeal against the order passed by the Comarca Judge of Salcete challenging his order in Inventory Proceedings No.1259/59.

2. It may be noted that this Court, by Order dated 4.7.02 in Civil Revision Application No.7/2002, remanded the matter with direction that the lower Court should decide the question of deletion of properties as per Article 1383 of the Family Laws of Goa, Daman and Diu and with those directions the civil revision application was allowed with no order as to costs.

3. Consequently, the matter went in remand and the impugned order came to be passed by the lower Court. However, perusal of the said order does not show that there was any application of mind by the learned Judge in respect of items No.1 and 2, which were directed to be adjudicated upon as per the provision of Article 1383 of the Family Laws. The learned Judge has only observed that in view of the earlier order of this Court and the application made by the *Cabeca de Casal* at Exhibit 185, there was no room for holding conference of the interested parties before deleting the items No.1 and 2 mentioned in the order. In my view, the matter was remanded with sole purpose to rectify the lacunae left by the learned Judge and it was incumbent upon him to adjudicate the matter in

the light of Article 1383 of the Family Laws.

4. Hence, I have no option but to remand the matter to the Comarca Judge, Salcete with direction that he shall comply with the earlier Order of this Court dated 4th July, 2002 in Civil Revision Application No. 7/2002 within a period of two months from the date of receipt of writ of this Court and record the speaking order on the point in question. With these observations, the appeal is allowed and the impugned order is set aside with above noted direction. No order as to costs.

P.V. KAKADE, J.

ssm.